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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,342	02/11/2005	Werner Flueckiger	DT-6974	6954
30377	7590	01/11/2008		
DAVID TOREN, ESQ. ABELMAN FRAYNE & SCHWAB 666 THIRD AVENUE NEW YORK, NY 10017-5621			EXAMINER PANI, JOHN	
			ART UNIT	PAPER NUMBER
			3736	
			MAIL DATE	DELIVERY MODE
			01/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,342

Applicant(s)

FLUECKIGER, WERNER

Examiner

John Pani

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application No. 1 078 614 to Fluckiger ("Fluckiger") in view of US. Pat. No. 2,878,486 to Bartlett et al. ("Bartlett") and US Pat. No. 1,020,617 to Matthews ("Matthews"). However, U.S. Patent No. 6,620,142 to Fluckiger is considered an English language equivalent by examiner and will be referred to heretofore. See MPEP s. 901.05(III) and 2131.01.

In reference to Claim 14

Fluckiger teaches a disposable aid for urination having a folded drain member (**conduit element 1**) which is formed of walls which lie flat against each other, of a hygiene paper (**See col. 1 lines 55-59**), by folding along the central line (**10**) and which bound a drain channel (**outlet part 6**) provided with a wetting inhibiting layer (**See col. 2 lines 32-66**), said drain member (**1**) including an inlet section (**inlet part 5**) which can be formed into a funnel (**See Fig. 1**) for the reception of urine, a drain section (**outlet**

part 6) for the draining of urine into a toilet and a sideways projecting holding part (**gripping part 7**), characterized in that the inlet section (**inlet part 5**) is formed of a first wall (**section between the two longitudinal folds 15**) with two wall sections (**one is section from 15 on left to middle fold 10, other is from middle fold 10 to 15 on right**) which are made in one piece with the drain sections (**see Fig. 3**), and of a second wall (**when connected as in Fig. 1, segments 2c and 3c form a continuous second wall**) with two wall sections (**2c and 3c**) connected, respectively, with the two wall sections of the first wall (**continuously via folds 15**) and in that the holding part (**7**) is formed of two sections (**2a and 3a**) connected, respectively, with the two wall sections of the second wall (**see Fig. 3**). However, Fluckiger does not mention that the holding part is surrounded by the wall sections or that the holding part projects beyond the folded wall sections by a distance that insure automatic opening of the inlet section upon pivoting of the holding part.

Bartlett teaches of a sanitary device (**10**) with a projecting handle portion (**18**). In a folded position (**See Fig. 4**), the handle portion (**18**) is surrounded by the wall portions (**14**). Bartlett notes (**Col. 3 lines 10-30**) that this configuration is beneficial because it occupies a minimum amount of space, because the folded product defines an area equal to the wall portion (**14**).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the shape and dimensions of wall sections **2a** and **3a**, and the gripping part **7** in the device taught by Fluckiger, such that the gripping part **7** would be surrounded by wall sections **2a** and **3a** as taught by Bartlett, so that the device

would occupy a minimum amount of space and could easily be carried, as explicitly taught by Bartlett.

Matthews teaches of a collapsible drinking cup in which a handle/pull-tab **6** extends from the collapsible device when the device is in a collapsed position (see Figs. 1 and 2). This configuration allows one to easily open the device from a collapsed state using the handle (see Figs. 1-2). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Fluckiger as modified by Bartlett by ensuring that some of the handle/gripping part extend from the device such that it could be easily gripped to assist in opening the collapsed device while also serving as a handle, as implicitly taught by Matthews.

In reference to Claim 15

Fluckiger in view of Bartlett and Matthews teaches the device of claim 14 (see above) and Fluckiger further teaches that the wall sections of the drain section art at least partly connected to another in an edge region (**12b and 13b**, see Fig. 1).

In reference to Claim 16

Fluckiger in view of Bartlett and Matthews teaches the device of claim 14 (see above) and Fluckiger further teaches that the drain member is formed of a first cut blank (see Fig. 3).

In reference to Claim 17

Fluckiger in view of Bartlett and Matthews teaches the device of claim 14 (see above), and Fluckiger teaches making the drain of first and second cut blanks (see Fig. 3, the bottom of the inlet section is interpreted as part of the drain section). However,

Fluckiger does not teach using a third blank. Fluckiger does teach including a variety of coatings within the device (see col. 2 lines 53-61) including ones to sense analytes in the urine. It would have been obvious to one having ordinary skill in the art at the time of the invention to have made the drain section of three different blanks so that three different analyte sensors could have been included in the device.

Response to Arguments

3. Applicant's arguments filed 10/12/2007 have been fully considered but they are not persuasive. Regarding the applicant's assertion that Bartlett does not disclose connection of the holding part with only two of the surrounding wall sections, thereby insuring opening of the aid by simply pivoting the holding part, the examiner respectfully disagrees, as Bartlett shows that **18** is attached to the two walls the surround it, and by grabbing **18** (such as by tweezers) and pulling it outward, the aid would pivotally open. The Matthews reference has been relied upon above to overcome the Bartlett references lack of teaching the extension of the holding part beyond the surrounding walls.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Pani whose telephone number is 571-270-1996. The examiner can normally be reached on Monday-Friday 7:30 am - 5:00 pm EST.

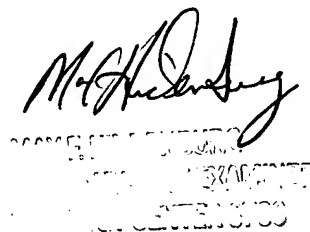
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JP 1/8/07

A handwritten signature in black ink, appearing to read "McHendry", is written over a rectangular official stamp. The stamp contains the words "RECEIVED" and "JAN 10 2007" in a bold, sans-serif font.